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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,137	04/13/2004	Craig D. Quarberg	20040030.ORI	4527
23595	7590	07/31/2006	EXAMINER	
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/823,137	QUARBERG, CRAIG D.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8,9,11-15 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 10 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on May 15, 2006.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 8,9,11-15 and 17-19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,313,505 to Petrie in view of US Pat No 4,971,374 to Lovell et al (Lovell '374).

Regarding claims 8 and 14, Petrie discloses a brace comprising plurality of pole members (15) that includes upper and lower ends.

A single block member (36) secured to the upper ends of the plurality of pole members (by means of 11 and 24). The block member is a solid piece of material in the form of a generally flat-sided parallelepiped having a top planar surface (top of 36) with a yoke (34) extending upwardly from the top planar surface and a cylindrical stem (32) extending upwardly from the top surface and fitting into a circular opening (Figure 2) in the bottom of the yoke.

However, Petrie fails to disclose that the lower ends of the pole member have a foot member.

Lovell '374 teaches that it is well known in the art at the time the invention was made to provide a foot member (78) to the lower end of a pole (60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device described by Petrie with a foot member, as taught by Lovell '374, so as to prevent from slippery or to stabilize the device.

As to claims 9 and 15, Petrie fails to disclose that each pole member includes first and second telescopically segments.

Lovell '374 teaches that it is well known in the art to provide a brace that includes a pole member with first and second telescopically segments (60 and 62).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pole members described by Petrie with telescopically segments, as taught by Lovell '374, in order to provide the pole members at a desire height.

As to claim 11 and 17, Petrie, as modified by Lovell '374, teaches that the foot member includes a non-skid floor-engaging surface (90).

As to claim 12 and 18, Petrie, as modified by Lovell '374, teaches that the skid surface is an elastomeric pad.

As to claim 13 and 19, Petrie, as modified by Lovell '374, teaches that the non-skid surface includes a plurality of dominantly projecting corrugations (92).

***Allowable Subject Matter***

4. **Claims 10 and 16 are objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

At the instant, Petrie fails to disclose that the pole members (15) are secured to the block member (36) by passing the pole members through apertures at the bottom surface of the block and locking them to the block by means of a locking member.

Petrie discloses that the poles are secured to the block member by means of the poles 11 and 24.

Barrows (US 2,330,105) teaches that it is well known in the art to secure a pole member (23 and 24) to a block member (19) by introducing the pole member into a circular aperture (21) in the bottom surface of the block (19).

However, it would not be obvious to an ordinary skill in the art to provide the teachings of Barrows into the block 36 described by Petrie.

### ***Response to Arguments***

5. Applicant's arguments filed on May 15, 2006 have been fully considered but they are not persuasive.

The applicant argues that Petrie fails to disclose the new limitations presented in the claims, specifically, that Petrie fails to disclose a single block member that is a solid piece in the form of a generally flat-sided parallelepiped (Page 5 Line 7).

As seen in figure 2, Petrie clearly illustrates a single block member (36) that is a solid piece in the form of a generally flat-sided parallelepiped. Therefore, the rejection is maintained.

### ***Conclusion***

6. Applicant's amendment, that the block member is a single block member that is a solid piece in the form of a generally flat-sided parallelepiped, necessitated the new

ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3676

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo  
Patent Examiner AU 3676  
July 21, 2006.



**BRIAN E. GLESSNER**  
**SUPERVISORY PATENT EXAMINER**